

GAO

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GAO's Agency Protocols



G A O

Accountability * Integrity * Reliability

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United States General Accounting Office
Washington, D.C. 20548

Comptroller General
of the United States

December 2, 2002

This document contains GAO's *Agency Protocols* that we are launching in a pilot phase starting in December 2002. These protocols are intended to govern the U.S. General Accounting Office's (GAO) work with executive branch agencies and to provide clearly defined and transparent policies and practices on how GAO will interact with agencies in the performance of its work. As you know, GAO supports the Congress in meeting its constitutional responsibilities and strives to help improve the performance and accountability of the federal government for the benefit of the American people. While GAO's primary client is the Congress, we seek to maintain constructive working relationships with the executive branch; conduct our work in a professional, objective, and nonpartisan manner; and help improve government. In fact, the vast majority of GAO's recommendations are addressed to executive branch officials for action. I firmly believe these protocols will help to ensure the consistency, fairness, and effectiveness of GAO's interactions with the agencies and thereby enable GAO to better serve the Congress and the American people.

We provided an opportunity for 28 federal departments, agencies, and entities (subsequently referred to as agencies), including all of the agencies with presidentially appointed chief financial officers and the President's Council on Integrity and Efficiency, to comment on a draft of the protocols. The majority of the agencies that responded appreciated GAO's initiative to develop the protocols and said that they were comprehensive and provided a framework for meaningful communication. We received and considered more than 200 comments, the majority of which we addressed. Many of the comments sought clarification of what we expected of the agencies and what they could expect from GAO. For example, we were asked to

clarify communication procedures between GAO and the agencies associated with meetings, agency comments, and recommendation follow-up. The protocols have been revised in those areas to reflect the following:

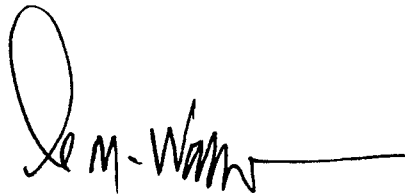
- For agencies that designate a central GAO liaison, we will communicate to the agency liaison when executive-level meetings are scheduled; provide the liaison with a notification letter; and coordinate the entrance, exit, and agency comment meetings with the liaison.
- To the extent possible, at the entrance conference, GAO will provide the agency with an estimate of how long the work will take.
- To the extent appropriate, GAO staff will hold a closeout meeting at field locations with agency officials who are responsible for the operations of the field location and the work's objectives.
- The purpose of the exit conference is to confirm that the critical facts and key information used to formulate GAO's analyses and findings are current, correct, and complete. This information may be provided in writing. However, GAO did not revise the protocols to require that such written material be provided. A draft of the written report is provided subsequent to the exit conference when agency comments are solicited.
- In keeping with GAO's values of being fair and balanced in its work with all agencies, GAO has articulated its criteria for determining the amount of time available for agency comments on GAO's products. In addition, the protocols have been revised to recognize that in using these criteria, GAO will generally give an agency from 7 to 30 calendar days to comment on a report. The exact time will vary, depending on the nature of the engagement and the needs of the Congress.

- Recommendation follow-up is a shared GAO and agency responsibility. The revised protocols describe GAO's implementation of this process in further detail, including how toward the end of the fiscal year, special attention is directed to the identification of recommendations that are still open.

In addition to seeking clarification of various operational issues, some agencies raised questions concerning the statements of our audit and access authorities cited in the protocols. We provided additional references in some areas to clarify our position. However, a few of the issues raised by the agencies are the subject of litigation (*Walker v. Cheney*, No. 1:02CV00340, (D.D.C. filed February 22, 2002)); therefore, we made no changes pending the outcome of that litigation.

I look forward to pilot testing these protocols from December 2, 2002 and lasting through June 30, 2003. After this phase, we will make any needed refinements based on feedback received and finalize the protocols. I, along with members of the GAO team, look forward to using these protocols to continue to serve the Congress and the American people while maintaining a professional, constructive working relationship with the federal departments, agencies, and other entities that are stakeholders in GAO's work. Questions or comments about *GAO's Agency Protocols* may be directed to

Mr. Gene L. Dodaro, Chief Operating Officer, at
(202) 512-5600 or via e-mail at
AgencyProtocols@gao.gov.

A handwritten signature in black ink, appearing to read "D. M. Walker", followed by a horizontal line.

David M. Walker
Comptroller General
of the United States

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GAO's Agency Protocols

Preface

This document contains the protocols governing the U.S. General Accounting Office's (GAO) work at federal departments, agencies, and entities (subsequently referred to in this document as agencies). The protocols are the general principles governing GAO's relationships with federal agencies when GAO conducts its work (e.g., financial audits, program reviews, evaluations, analyses, and investigations) at these agencies. They are intended to enhance GAO's working relationships with agencies by building on practices that have proved successful in the past and by establishing a framework that will supersede prior arrangements with the agencies.

The purpose of these protocols is to set forth clearly defined and transparent policies and practices on how GAO carries out its work at these agencies. The protocols identify what the agencies can expect from GAO and what GAO expects of the agencies. They are expected to cover most situations that arise during the course of GAO's work. Furthermore, the protocols will help to ensure the consistency, fairness, and effectiveness of interactions between GAO and the agencies with which it works. The protocols reflect the framework of GAO's engagement and audit activities. These activities include communication between GAO and the agencies, interactions during the course of GAO's work, and follow-up on GAO's recommendations. GAO follows modified protocols in work leading up to congressional testimony and during investigations of fraud, abuse, or misconduct conducted by its Office of Special Investigations. These modified protocols are articulated in the sections of this document entitled Testimony and Office of Special Investigations.

These protocols are not applicable to the work GAO conducts in support of its legal opinions and decisions. GAO's General Counsel issues legal opinions in response to requests from the Congress and its committees. GAO also has statutory authority to render decisions on

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matters such as bid protests and the availability and use of appropriated funds. Further information about this work can be found in *Bid Protests at GAO: A Descriptive Guide* and *Principles of Federal Appropriations Law, Volumes I, II, III, IV*, which are available on GAO's Web site www.gao.gov.

In addition, these protocols are not meant to govern GAO's relationship with the federal Inspectors General (IG) community. GAO and agency IGs are all part of the accountability community; therefore, the relationships between GAO and agency IGs are considered additional to and separate from these protocols. GAO and IG interactions are intended to underscore a constructive working relationship that effectively leverages resources; builds a mutual knowledge base; and maximizes the oversight of federal programs, offices, and activities. For example, GAO relies on the work of the IGs and other auditors to meet the requirements of the Chief Financial Officers (CFO) Act for audited financial statements. Through successful working relationships between GAO and the IGs, agencies have consistently met the CFO requirements. Also, through the IG's active participation in the Comptroller General's Advisory Council on Government Auditing Standards, the Domestic Working Group, and the activities of the Intergovernmental Audit Forums, GAO and the IGs share information, identify emerging issues, and achieve broad coordination. Furthermore, at agencies where GAO has a substantial ongoing audit presence, as a professional courtesy, GAO meets periodically with representatives of the agency's Office of Inspector General to (1) coordinate work between GAO and the Office of Inspector General, (2) achieve efficiencies and minimize duplication, and (3) identify specific issues that might benefit from a collaborative effort between GAO and the Office of Inspector General.

GAO's Mission

GAO examines the use of public funds; evaluates federal programs and activities; and provides analyses, options, recommendations, and other assistance to help the Congress make effective oversight, policy, and funding decisions. In this context, GAO works to continuously improve the economy, efficiency, and effectiveness of the federal government through the conduct of financial audits, program reviews, evaluations, analyses, legal opinions, investigations, and other services. GAO's activities are designed to ensure the executive branch's accountability to the Congress under the Constitution and the federal government's accountability to the American people.

GAO supports congressional oversight in several ways. For example it

- oversees government operations through financial and other management audits to determine whether public funds are being spent efficiently, effectively, and in accordance with applicable laws;
- evaluates federal policies and the performance of agencies and programs to determine how well they are working;
- analyzes financing for government activities;
- conducts analyses to assess needed actions and the implications of proposed actions;
- conducts investigations to assess whether illegal or improper activities are occurring; and
- provides legal opinions to determine whether agencies are in compliance with laws and regulations.

Further information about the general principles governing GAO's work for the Congress and GAO's operating plan can be found in *GAO's Congressional Protocols* and *GAO's Strategic Plan*, both of which are posted on GAO's Web site www.gao.gov.

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Sources of GAO's Work

GAO undertakes work through three primary means: (1) congressional mandates, (2) congressional requests, and (3) legal authority allowing GAO to undertake work on its own initiative that is intended to support the Congress (research and development work).

GAO's Approach

To effectively support the Congress, GAO must be professional, objective, fact-based, nonpartisan, nonideological, fair, and balanced in all its work. GAO is committed to meeting the highest level of professional standards while conducting audits, evaluations, and investigations reflective of its core values of accountability, integrity, and reliability. GAO performs its audit and analytical work in accordance with generally accepted government auditing standards (GAGAS or the "Yellow Book" standards which can be found at www.gao.gov). GAO conducts its investigations—which involve allegations of serious wrongdoing that may involve potential violations of criminal law—and its testing of the security of agencies' systems, controls, and property in accordance with standards established by the President's Council on Integrity and Efficiency as adapted for GAO's work.

Statutory Responsibilities

Through the Budget and Accounting Act of 1921, the Congress established GAO in the legislative branch with the broad role of investigating "all matters relating to the receipt, disbursement, and application of public funds" and to "make recommendations looking to greater economy or efficiency in public expenditures." Since World War II, the Congress has clarified and expanded that original charter:

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- The Government Corporation Control Act of 1945 provides GAO with the authority to audit the financial transactions of government corporations.
- The Budget and Accounting Procedures Act of 1950 assigns GAO the responsibility for establishing accounting standards for the federal government and for carrying out audits of internal controls and financial management.
- The Legislative Reorganization Act of 1970 and the Congressional Budget and Impoundment Control Act of 1974 authorize GAO to conduct program evaluations and analyses of a broad range of federal activities.
- The Chief Financial Officers (CFO) Act of 1990 and the Government Management Reform Act of 1994 authorize GAO to audit agencies' financial statements and annually audit the consolidated financial statements of the United States.
- Numerous other laws complement GAO's basic audit and evaluation authorities, including the Inspector General Act of 1978, providing for GAO-established standards for the audit of federal programs and activities, and the Competition in Contracting Act of 1984, providing for GAO's review of protested federal contracting actions.

Communication between GAO and Agencies

GAO is committed to maintaining constructive and continuing communication with agencies and major components within agencies. These communications will take several forms, including, as facts and circumstances warrant, meetings between GAO's Comptroller General or Chief Operating Officer and the heads of agencies or their designees at the presidential appointee with Senate confirmation (PAS) level to discuss areas of mutual interest and concern.

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Other forms of communication include periodic meetings with an agency's leadership and executives and specific communications with an agency pertaining to planned and ongoing work. Specifically:

- At least annually, at agencies where GAO has a substantial ongoing audit presence, GAO senior executives and leaders responsible for managing and coordinating GAO's work, generally known as GAO's agency executive liaisons, will meet with agency-designated senior executives, such as an Assistant Secretary for Administration, an Associate Administrator for Management Systems, or an Assistant Secretary for a particular program. These executive-level meetings will help build an understanding of key and emerging issues; provide an opportunity to discuss GAO's short- and long-term work plans, as well as the general working relationship between GAO and the agency, including the agency's use of GAO's work; and facilitate the discussion of issues associated with particular work. For the agencies that designate a central GAO liaison, once an executive-level meeting has been scheduled, as a professional courtesy, GAO will notify the liaison that the meeting has been scheduled.
- When GAO initiates work at an agency, the agency can expect GAO to designate a primary point of contact who will be available throughout the engagement to respond to the agency's requests for information on the status of work and to any concerns about the work's scope or approach. In turn, GAO expects the agency to designate a point of contact who is knowledgeable about the agency's relevant programs and organization and is able to facilitate GAO's ability to complete its work in a timely manner. Furthermore, the agency-designated central liaison or point of contact should be able to, among other things, set up necessary meetings (such

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as entrance, exit, and agency comment meetings), identify and ensure that GAO meets with the appropriate agency representatives, help resolve problems, and coordinate agency comments on any draft product that may result from the work.

In response to inquiries from agencies not involved in a particular ongoing review, GAO will provide information only about the objectives, scope, and methodology of the review; the source of the work (i.e., mandate, name of the congressional requester(s), or legal authority allowing GAO to undertake work on its own initiative that is intended to support the Congress); and the expected completion date, when known. For congressionally requested work, further information may be shared after consultation with the congressional requester(s).

Notification of GAO Work

Before beginning any new engagement that requires GAO to seek information, data, or both, from an agency, GAO generally notifies the agency of the work to be undertaken. However, when GAO conducts an investigation it does not notify the agency of the work because to do so might jeopardize the investigation. GAO's modified protocols for investigations are described in detail in the Office of Special Investigations section of this document. To the extent practical, the notice to an agency will identify the

- engagement subject;
- engagement's unique identification number (i.e., engagement code);
- source of the work;
- objectives or key questions of the work;
- agency(ies) and, when possible, anticipated location(s) to be contacted;
- estimated start date for the work;

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- time frame for holding entrance conference between GAO and the agency;
- GAO team performing the engagement; and
- GAO points of contact (name, telephone number, fax number, and e-mail address).

If the objectives of the work to be performed change significantly or if the location of the work needs to be modified, GAO will notify the agency-designated central liaison or primary point of contact of these changes.

GAO will generally provide written notification to the agencies involved in the work electronically in an agreed-upon format that protects the files from alteration. GAO will provide the notification to the agency-designated liaison or agency-designated point of contact. If an agency has not designated a central liaison, GAO will provide the notification to the responsible agency management official. In some instances, GAO may ask an agency liaison to distribute the notification to the agency's respective major components. In addition, if applicable, the notification letter will be accompanied or followed by a notice of visit form that includes the appropriate security clearance information.

For certain types of work to be performed at an agency, GAO may initially provide only telephone or e-mail message notification. Such work includes (1) congressional requests for quickly developed testimony based on new work, (2) work that is to be completed within a short time frame, and (3) requests for information on the implementation status of recommendations made in issued reports. GAO's recommendation follow-up process is discussed in detail in the Follow-up on GAO Recommendations section of this document. When GAO notifies an agency of work by telephone or e-mail message, it will subsequently provide a notification letter in instances

when the work is on an issue with widespread national implication or is resource intensive.

Entrance Conference

An entrance conference is a meeting that GAO holds with agency officials at the start of an engagement. GAO anticipates that an agency will attempt to arrange for its personnel to be available for an entrance conference no later than 14 calendar days after receiving a request for a meeting. At the entrance conference, GAO will discuss the (1) source of the work; (2) roles and responsibilities of the GAO staff; (3) information needs (e.g., data and access to agency officials); (4) key objectives (research questions); (5) sites where GAO expects to conduct its work, when known; and (6) need for any precautions to protect the data and information, such as special clearances. To the extent possible, GAO also will provide the agency with an estimate of how long the work will take. During the entrance conference, GAO will also ask agency officials to designate a key contact to assist, as applicable, in obtaining temporary office space in agencies where GAO does not already have office space as well as fax and telephone equipment needed for GAO to complete its work at the agency. In addition, GAO staff will request that agency officials identify knowledgeable agency personnel and discuss the kinds of information that would be useful to carry out the work's objectives, such as available studies or electronic files.

The attendance of key agency officials—those responsible for work related to GAO's key objectives—at the entrance conference enhances the opportunity for a substantive exchange of information. If the review includes work at separate agency field locations, or if requested by the agency, GAO will consider holding additional entrance conferences when work is begun at field locations.

In certain cases, GAO's work involves crosscutting governmentwide reviews at more than one agency, including reviews on such issues as performance management and budgeting. For example, GAO's work on how well agencies are incorporating a results orientation into their budget decisions and resource allocation process involves all major agencies. For such a governmentwide review, an entrance conference is generally held with applicable central agencies, such as the Office of Management and Budget (OMB) or the Office of Personnel Management. If requested, GAO will consider either including all of the agencies under the review at a single entrance conference or holding a separate entrance conference with specific agencies.

Generally, GAO will not hold an entrance conference in those instances when it is (1) responding to congressional requests for testimony based on ongoing or recently completed work, (2) performing work that is to be completed within a short time frame and is closely related to ongoing work, or (3) updating the implementation status of recommendations made in issued reports.

Closeout Meeting at Field Locations

After conducting work at a field location, to the extent appropriate, GAO staff will hold a closeout meeting with agency officials who are responsible for the operations of the field location and have oversight for issues related to the work's objectives. The purpose of the closeout meeting is to ensure that GAO staff have been provided with a full understanding of the information they have gathered at a field location and its relevance to the engagement's objectives. In deciding on whether or not a closeout meeting will be held, GAO will consider the preferences of the agency officials and whether the work has involved interviews with numerous people, over a significant period of time, at that particular location.

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At the closeout meeting GAO staff may discuss the implications of the information gathered at that field location. Such discussions may identify additional relevant information and thus lead to further data gathering at the location. In addition, as appropriate, the closeout meeting may cover the extent to which data and documents were made available and access to relevant field officials was provided. Generally, work undertaken at individual field locations provides only location-specific information that needs to be evaluated in the context of findings from other locations. Therefore, GAO's preliminary conclusions or recommendations are not discussed at the closeout meeting.

Exit Conference with Agency

GAO holds an exit conference with an agency after completing its data collection and analysis. The purpose of the exit conference is to confirm that the critical facts and key information used to formulate GAO's analyses and findings are current, correct, and complete. GAO officials responsible for the completion of the engagement will participate in the meeting. Agency officials who have oversight of the issues related to the engagement's objectives are also expected to attend the meeting. Written material, if provided, will be used to confirm that the critical facts and key information used to formulate GAO's analyses and findings are current, correct, and complete. Observations, preliminary conclusions, and potential recommendations that flow from the factual information collected may be discussed but are not provided in writing.

Agency Comments

As required by generally accepted government auditing standards, GAO provides responsible agency officials and other directly affected parties with an opportunity to review and provide comments on a draft of a report before it is issued. The amount of time available for the

agency to comment is determined on a facts-and-circumstances basis. However, GAO will not seek comments from an agency or affected party when (1) disclosure of an investigation's results could pose risks to individuals and their confidentiality or (2) premature disclosure of information could compromise the results of the work. GAO follows modified protocols for work undertaken by its criminal investigators. These modified protocols are described in the section of this document entitled Office of Special Investigations.

In keeping with its values of being fair and balanced in all its work with all the agencies it reviews, GAO, when determining the amount of time available for comment, will consider (1) the timing needs of the requester, (2) the extent to which substantive discussions have already been held between GAO and the agency, (3) the length of time spent on the engagement, and (4) the amount of resources GAO and the agency have expended to answer the engagement's objectives. Using these criteria, GAO will generally give an agency from 7 to 30 calendar days to comment on a report unless otherwise required by law. *See 31 U.S.C. §718(a) for a list of financial institutions that by law must receive 30 days for comment.* The exact time will vary depending on the nature of the engagement and the needs of the Congress. In rare cases, the Comptroller General may grant an extension beyond 30 calendar days if the agency shows that an extension is necessary and will likely result in a more accurate report. *See 31 U.S.C. §718(b).*

GAO reserves the right to issue the report to the congressional requester(s) if the comments are not received within the time allotted. In such cases, the reason for not including the agency comments will be stated in the report. GAO will usually not solicit agency comments if a report summarizes information from a recently issued GAO report. In addition, testimony

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statements generally are not provided to agencies for comment. As previously noted, GAO follows modified protocols for testimonies, which are described separately in the section of this document entitled Testimony.

GAO prefers that agencies provide written comments, and GAO is requesting that the written comments be provided electronically. However, GAO will accept comments provided in hard copy, orally, or in an unsigned e-mail message. GAO is requesting that the agencies provide their written comments electronically in order to comply with Section 508 of the Rehabilitation Act. This act requires that persons with disabilities have access to and use of information and data that are comparable to the access and use provided to persons without disabilities. *See 29 U.S.C. §794d.* GAO's goal is to provide its products in a format that is compatible with assistive technologies such as text-to-sound screen reader software. Submitting an electronic file ensures that an agency's comments are accurately reproduced in GAO's accessible product format. Contact GAO's Director for Publications and Dissemination, at (202) 512-7055, for specific information about how to electronically transmit agency comments to GAO. Comments on classified or restricted reports should be transmitted in the manner agreed to by GAO and the agency.

GAO expects an agency to provide (1) a single position on GAO's findings, conclusions, and recommendations—including a resolution of disparate agency views if necessary—and (2) the rationale for any disagreement with GAO's draft report. When an agency's designated senior official provides oral comments, GAO will summarize these comments and give the designated official an opportunity to respond to GAO's characterization of the agency's position. The GAO senior executive official responsible for the completion of the engagement, along with the staff that performed

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the work, will participate in this meeting. In addition, for governmentwide work, GAO will generally request that comments be provided by the agency(ies) with whom the entrance conference was held.

Consistent with *GAO's Congressional Protocols*, the congressional requester(s) will be notified before a draft report is provided to an agency for comment and will be offered a copy of the draft for informational purposes when the draft report is provided to the agency for comment. Furthermore, under 31 U.S.C. §718(b)(2), the Senate Governmental Affairs and House Government Reform committees may request copies of any draft report generated under GAO's legal authority to undertake work on its own initiative (research and development work) when the draft report is sent to the agency for comment. GAO will advise these committees when such a draft is sent to the agency for comment.

Procedures for Soliciting Agency Comments

GAO does not have classification authority for its products. Therefore, for those products that contain national security or sensitive information, GAO will request that the agency perform a review for this type of information and that the review's results be communicated in writing to GAO. When a product requires a classification review, upon written receipt of the results of the agency's review, GAO will notify the congressional requester(s) that the agency has completed its classification review. Consistent with *GAO's Congressional Protocols*, GAO will then offer the requester(s) a draft of the product that is with the agency for comment. Both the agency's classification review and comments on the product must be completed within the time frame identified in GAO's letter transmitting the draft product.

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GAO transmits most draft reports for comment to agencies electronically in an agreed-upon format that protects the files from alteration. GAO will provide the draft report to the agency-designated liaison or agency-designated point of contact. If an agency has not designated a central liaison, GAO will provide the notification to the responsible agency management official. Classified or otherwise sensitive draft reports are transmitted through other means. A transmittal letter accompanies each draft report to inform recipients of GAO's request for written or oral comments and the time frame within which the comments are due. The transmittal letter also states that the draft report is not final; is therefore subject to change; and must be safeguarded to prevent its transmittal to unauthorized personnel, alteration, or premature release.

Draft GAO products are at risk of being prematurely released once they leave GAO's control. In some limited circumstances, when there is concern that a draft product may be prematurely released, GAO will take extra precautions in obtaining agency comments. For example, GAO may decide not to transmit a draft report electronically and instead provide limited printed copies of the draft to the agency. In addition, GAO may determine that the particular sensitivity of a draft report's information or recommendations requires restrictive comment procedures. In these instances, GAO may request that agency officials review the draft report in the presence of GAO staff and that these officials provide the agency's consolidated comments at that time. In such cases, the draft report will be available for review only at a meeting with GAO staff. Although agency officials may take notes as they review the draft, at the conclusion of the meeting, all copies of the draft report will be returned to GAO.

**Disposition of
Agency Comments**

After receiving agency comments, GAO considers their substance, revises the draft report as appropriate, and indicates in the issued report whether the agency agreed or disagreed with GAO's findings, conclusions, and recommendations. If the agency disagrees with GAO's findings, conclusions, and recommendations, GAO will accept further explanations from agency officials in support of the agency's position. However, any available documented evidence supporting this explanation must be provided simultaneously to allow for verification if it materially affects the content of the report. When the agency disagrees with a finding, conclusion, or recommendation, GAO identifies the disagreement and states its own position in the issued report. An agency's electronic or hard-copy written comments are typically reproduced in an appendix to the issued report. Unsigned e-mail describing an agency's comments will not be printed in the issued report. However, GAO identifies the disposition of this e-mail message in the Agency Comments section of the report, just as it does for oral comments.

On occasion, the congressional client(s) who requested the work may ask to see the agency's comments before GAO's final report is issued. Copies of written comments on a draft GAO report may be shared with the requester(s) if the requester(s) specifically ask(s) GAO for the comments and GAO has evaluated the comments and developed its position on them. Comments will not be shared with anyone else, including congressional staff not associated with the request, the media, or other external parties, until the report is released and posted on GAO's Web site www.gao.gov.

Testimony

Congressional committee or subcommittee Chairs frequently request that GAO prepare testimony statements and that GAO witnesses appear at hearings. GAO is required to follow the rules of the Senate and the

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House and relevant committees or subcommittees in connection with any such testimonies. Accordingly, *GAO's Agency Protocols* are modified for these requirements as described in this section. For example, because most hearing appearances are requested and statements are delivered within short time frames or are based on work that is new and quickly developed, ongoing or already completed, GAO generally does not hold an entrance conference with agency officials. When agency officials need to be contacted for information that was not previously obtained or was not part of a previous review, GAO will notify the agency-designated central liaison, generally by telephone or e-mail message. If the agency has not designated a liaison, GAO will provide notification to the responsible agency management official.

For testimony based on new or ongoing work, regardless of whether it is a preliminary or a final product, GAO will obtain the views of agency officials on the information collected from the agency to (1) validate the accuracy of the data gathered and (2) discuss the implications that flow from the data gathered. The agency's views are generally obtained through a meeting with the official designated to speak for the agency or through other means, such as a telephone conference call. The views of the agency official will be considered in the development of the testimony statement. If the agency is unable to schedule a meeting to provide its views within the time frame specified by GAO, the testimony statement will reflect that GAO was unable to obtain the agency's views. Generally, when the testimony statement is based on recently reported work, GAO will not seek agency views. Additionally, when GAO testifies on investigations it conducts, it does not obtain testimony statement views because such actions could jeopardize future proceedings. GAO's modified protocols related to investigations are explained in greater detail in the separate section of this document entitled Office of

Special Investigations. GAO will distribute its written testimony statement in accordance with the rules of the Senate or House, including the applicable committees' or subcommittees' rules.

Disposition of Work

Consistent with generally accepted government auditing standards, GAO prefers using published products to communicate the final results of its work because they (1) communicate the results consistently to all interested parties, (2) make the results available to the public, (3) build a readily available subject-matter record for future use, and (4) facilitate follow-up to determine whether appropriate corrective measures have been taken when needed. However, an oral briefing may be used, for example, when GAO (1) determines that further work is not warranted; (2) provides information that is readily available to the public, such as that in Inspector General reports; or (3) develops a summary of previously issued GAO products that does not contain any new findings, conclusions, or recommendations. In these instances, GAO will notify the agency-designated central liaison or point of contact that the engagement has been terminated without a written product.

GAO will provide electronic copies of reports to agencies upon issuance or release. GAO teams responsible for the engagement will provide to the agency contact via e-mail the final electronic version of the report and the transmittal letter. However, GAO will provide the agencies with hard copies of the report, if requested. In addition to providing copies of the product to the agencies involved, GAO's goal is to post written products on its Web site www.gao.gov within 24 hours of release. All congressionally requested products will have a targeted issue date that is determined through negotiations between GAO and the requester(s). However, the congressional requester(s)

may ask GAO to restrict the release of a product for up to 30 calendar days beyond the targeted issuance date. GAO reserves the right to release any product that has been issued to the congressional requester but is under restriction if the product's contents are made public prior to the expiration of the restriction date. GAO products that contain classified or restricted data are not posted on the Web site. Classified products are distributed only to those with the appropriate security clearances and a need to know. Restricted versions of products that contain sensitive information are distributed only to recipients who are authorized by statute or regulation to receive the products, have a need to know, or both.

Follow-up on GAO Recommendations

GAO's recommendations are intended to improve the economy, efficiency, and effectiveness of an agency's operations and to improve the accountability of the federal government for the benefit of the American people. Consequently, GAO monitors agencies' progress in implementing these recommendations. To accomplish this monitoring, GAO maintains a database of open recommendations. As new products with recommendations are released, their recommendations are incorporated into the database. This database serves both GAO and the agencies by helping them meet their record maintenance and monitoring responsibilities.

GAO's goal is to remove all closed recommendations from the database on an ongoing basis. However, toward the end of each fiscal year, special attention is directed to this effort. GAO removes a recommendation from its database after determining that (1) the agency has implemented the recommendation or has taken action that in substance meets the intent of the recommendation or (2) circumstances have changed and the recommendation is no longer relevant. The open recommendations database is available to the public on

GAO's Web site www.gao.gov. Specific recommendations can be identified because the database is searchable by agency, congressional committee, and key words. Congressional oversight and authorization committees, as well as the Appropriations Committees, can use the database to prepare for hearings and budget deliberations.

Agencies also have a responsibility to monitor and maintain accurate records on the status of recommendations. These requirements are detailed in two OMB Circulars. *OMB Circular 50* provides the policies and procedures for use by executive agencies when considering reports issued by GAO and Inspectors General, other executive branch audit organizations, and nonfederal auditors where follow-up is necessary; and *OMB Circular A-123* addresses internal management control systems. Among the requirements included are that the agency (1) appoint a top-level audit follow-up official, (2) maintain accurate records on the status of recommendations, and (3) assign a high priority to following up on audit recommendations.

Additionally, when GAO issues a report containing recommendations to the head of an agency, 31 U.S.C. §720 requires that the agency head submit a written statement of the actions taken by the agency on GAO's recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Reform not later than 60 days after the date of the report. The agency's statement of action shall also be submitted to the House and Senate Committees on Appropriations with the first request for appropriations that is submitted more than 60 days after the date of the report. If the congressional requester has asked that the distribution of the report be restricted, as provided by GAO's *Congressional Protocols*, the 60-day period will begin on the date the report is released.

cell open

Because agency personnel serve as the primary source of information on the status of recommendations, GAO requests that the agency also provide it with a copy of the agency's statement of action to serve as preliminary information on the status of open recommendations. GAO will follow up by discussing the status of recommendations with cognizant agency officials; obtaining copies of agency documents supporting the recommendations' implementation; and performing sufficient work to verify that the recommended actions are being taken and, to the extent possible, that the desired results are being achieved.

Office of Special Investigations

The Office of Special Investigations (OSI) is a specialized unit within GAO that is staffed by criminal investigators. OSI's mission is to improve the performance and ensure the accountability of government by conducting oversight investigations concerning allegations of serious wrongdoing that may involve potential violations of criminal law. When OSI investigations disclose potential violations of law, the information is referred to the appropriate law enforcement agency, such as the Office of Inspector General or the Department of Justice. OSI investigations typically focus on allegations of corruption, fraud, misconduct, contract and procurement improprieties, conflicts of interest, and ethics violations in federal programs or activities.

OSI also engages in proactive operations that test the security of agencies' systems, controls, and property. These operations are coordinated with appropriate authorities, such as the Department of Justice. OSI will inform the agency of any serious security issues discovered during these operations shortly after the operations have been completed and before any of the related findings are made public. In addition, OSI's work involves law enforcement-related issues or programs.

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OSI also utilizes GAO's FraudNET, an automated system that affords the public an opportunity to report allegations of fraud, waste, abuse, and mismanagement of federal funds. Typically, OSI refers this information to the appropriate agency's Office of Inspector General or another law enforcement agency for action. GAO expects to receive a report from the agency on the results of the action.

OSI conducts its investigations and other work in accordance with the standards established by the President's Council on Integrity and Efficiency as adapted for GAO's work. In accordance with these standards, all OSI work is conducted by personnel who collectively possess the required knowledge, skills, and abilities to perform it and who exercise due professional care (e.g., thoroughness, appropriate use of investigative techniques, impartiality, objectivity, protection of individual rights, and timeliness) in the performance of their work. OSI seeks evidence of wrongdoing either in conjunction with or independently of audits and evaluations. It focuses on physical, testimonial, documentary, and analytical evidence that is relevant, material, and admissible in criminal and civil proceedings. To ensure admissibility in subsequent judicial proceedings, OSI performs its work in accordance with the requirements of the U.S. Constitution, statutes, and court decisions applicable to obtaining evidence in criminal and civil cases.

Like GAO's other units, OSI expects that an agency will promptly comply with requests for access to its records and to agency personnel directly involved with the matter under investigation. Furthermore, there should be no interference with an investigator's ability to obtain relevant information concerning an investigative matter. When OSI becomes aware of an ongoing executive branch investigation pertaining to a matter OSI is currently investigating, OSI will coordinate its work with the law enforcement agency involved.

Investigations by their very nature do not support the use of entrance or exit conferences. Nor do the standards of the President's Council on Integrity and Efficiency require these conferences. Revealing information at the start of an investigation may lead to the destruction or concealment of evidence, thus jeopardizing the investigation. However, in investigations that will result in a public report or testimony, OSI will brief agency officials after the investigation has been completed and before the information is made public. On occasion, OSI works jointly with other GAO units or independently on compliance or evaluation issues. In those cases, the provisions of GAO's standard agency protocols are applicable.

Access to Agency Information

The Congress relies on GAO to examine virtually every federal program, activity, and policy, as well as institutions that rely on federal funds. Generally accepted government auditing standards make GAO analysts and financial auditors responsible for planning, conducting, and reporting their work in a timely manner without internal or external impairments to the work. These standards require that analysts and financial auditors promptly obtain sufficient, competent, and relevant evidence to afford a reasonable basis for any related findings and conclusions. Therefore, prompt access to all records and other information associated with these activities is needed for the effective and efficient performance of GAO's work. While for the most part, agencies have provided GAO with requested information within agreed-upon time frames, the following sections describe the steps GAO is authorized to follow if it believes it is experiencing unreasonable delays in obtaining the requested access.

The Congress has given GAO broad statutory rights of access to a wide range of federal agency documents. The basic access authority is established in 31 U.S.C. §716(a), which requires each agency to give GAO "information the Comptroller General requires about the duties, powers, activities, organization, and financial transactions of the agency." GAO is also authorized to inspect an agency's records to secure the required information. This authority includes access to inter- and intra-agency memorandums and electronic files as well as sensitive information, including business-confidential or proprietary data. While the Freedom of Information Act, the Trade Secrets Act, and other statutes may generally protect certain categories of information from disclosure by an agency to the public, this protection does not justify withholding the information from GAO. GAO has a statutory right to access predecisional and deliberative documents unless the President or the Director of OMB certifies that certain standards are met under 31 U.S.C. §716(d)(1)(C), as added by the General Accounting Office Act of 1980. (*For further information see Senate Report No. 96-570, Feb. 8, 1980, pp. 6-8.*) Aside from the general access statute, various forms of special legislation govern GAO's access to certain types of agency records and information, such as tax, social security, financial institution, and employee benefit plan records and information. In addition, under certain circumstances, GAO has the authority to access information from other entities receiving federal funds, such as the District of Columbia, state and local governments, and private sector contractors.

Handling and
Disclosing
Information

GAO secures all information obtained during the course of its work. When GAO needs access to classified, proprietary, or otherwise sensitive information, it will comply with all applicable statutory requirements, including obtaining the necessary security and other clearances for assigned GAO staff. Under 31 U.S.C. §716(e), GAO is obligated to give the information the

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same level of confidentiality and protection required of the agency. Because of its statutory access authority, GAO generally does not sign a nondisclosure or other agreement as a condition of gaining access to sensitive or proprietary data to which it is entitled.

While GAO is not subject to the Freedom of Information Act, its disclosure policy follows the spirit of the act consistent with GAO's duties and responsibilities to the Congress. It is GAO's policy not to provide records to the public that originated in another agency or a nonfederal organization. Instead, GAO refers those who request such records to the originating organization. Further information on the public availability of the documents and data that form GAO's workpapers can be found in 4 C.F.R. part 81.

GAO will grant congressional Members, upon their written request, access to its workpapers at the GAO site or will provide copies of selected workpapers only after a product that results from the workpapers in question has been made publicly available. This access is subject to legal and privacy considerations, such as those concerning taxpayer return information, protected banking information, grand jury information, and credit card account information listed in travel vouchers.

Obtaining Access to Information

GAO's work involves different collection approaches to meet the evidence requirements of the generally accepted government auditing standards. Such evidence falls into four categories:

- physical evidence (e.g., the results of direct inspection or observation);
- documentary evidence (e.g., information created by and for an agency, such as letters, memorandums, contracts, management and accounting records, and

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- other documents in various formats, including electronic databases);
 - testimonial evidence (e.g., the results of face-to-face, telephone, or written inquiries, interviews, and questionnaires); and
 - analytical evidence (developed by or for GAO through computations, data comparisons, and other analyses).

GAO expects that an agency will promptly comply with its requests for access to the agency's records so that it can obtain all categories of needed evidence. Such access generally includes the ability to make and retain copies of the evidence. GAO also expects that it will receive full and timely access to agency officials who have stewardship over the requested records; to agency employees who are responsible for the programs, issues, events, operations, and other factors covered by such records; and contractor personnel supporting such programs, issues, events, and operations. In addition, GAO expects that it will have access to the agency's facilities and other relevant locations. GAO will endeavor to conduct work related to requests for information with minimal interruption to the agency's operations.

Resolving Disputes Over Access

Timely access to information is in the best interests of both GAO and the agencies. GAO needs to efficiently use the time available to complete its work to minimize the impact on the agency being reviewed and to meet the time frames of the congressional requester(s). Therefore, GAO expects that an agency's leadership and internal procedures will recognize the importance of and support prompt responses to GAO's requests for information. For the most part, agencies have provided GAO with requested information within agreed-upon time frames. However, if GAO believes it is experiencing unreasonable delays in obtaining requested access, GAO officials will contact the agency's leadership for

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resolution and notify the congressional requester(s) of the work affected, as appropriate. Consistent with GAO's reporting standards, when there is difficulty in obtaining timely access to information that adversely affects either the completion of an engagement, its scope, or both, GAO's product will reflect that GAO had this difficulty. In addition, unreasonable delays in gaining access to an agency's information can reduce the time available for the agency to provide its views or comments on GAO's work.

To ensure GAO's access to information maintained by federal agencies, the Congress provided in 31 U.S.C. §716(b) for enforcement actions to compel the production of a record. First, the Comptroller General sends a written request to the agency head for the record that has not been made available to GAO within a reasonable time after an initial request. The agency head then has 20 calendar days to respond, either by providing the record for inspection or by explaining why it is being withheld. If the agency head does not provide the record, the Comptroller General may file a report describing the access issues with the President, the Director of OMB, the Attorney General, the agency head, and the Congress. If the agency head does not provide the record within 20 calendar days of the report's filing, the statute authorizes the Comptroller General to bring a civil action in federal district court to enforce GAO's access rights. If the Comptroller General is successful in this action, the court will issue an order directing the agency head to produce the record.

Extremely limited exceptions to the authority are established in 31 U.S.C. §716(b) for a civil enforcement action to compel access to a record. The most notable exception is if the President or the Director of OMB certifies that (1) the record could be withheld under either of two Freedom of Information Act exemptions in 5 U.S.C. §552(b)(5) (deliberative process) and (b)(7) (law enforcement records) and (2) disclosure could

reasonably be expected to impair substantially the operations of the government—a requirement that, as the legislative history of Section 716 makes clear, presents a very high standard for an agency to meet. As previously noted, the fact that materials may be exempt from public disclosure does not justify withholding them from GAO. Moreover, GAO's statutory right of access to an agency's records is not diminished by the certification provisions of the legislation. Rather, the certification simply allows the President or the Director of OMB to preclude the Comptroller General from seeking a judicial remedy in certain limited situations. In the event there is a certification, generally accepted government auditing standards require that the limitations to GAO's access to records be identified in the product and that the audit findings be adjusted accordingly.

Press Policy

GAO does not initiate press conferences, but senior GAO officials may participate in press conferences held by Members of Congress, if requested. Although GAO generally does not issue press statements about products, it does advise the media, agency personnel, and the public of the release of GAO products via its Web site www.gao.gov and other venues. In response to inquiries from the media about ongoing work, GAO will provide information only about the objectives, scope, and methodology of a review; the source of the work (mandate, name of congressional requester(s), or legal authority allowing GAO to undertake work on its own initiative that is intended to support the Congress); and the expected completion date. GAO will refer inquiries for any additional information to the congressional requester(s). However, in response to media inquiries about ongoing OSI investigations, GAO will neither confirm nor deny the existence of such an investigation. As a professional courtesy, GAO will inform the requester(s) of substantive media inquiries during an ongoing review. As appropriate, such courtesy will be

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extended by GAO staff conducting the work to the agency-designated central liaison or point of contact for the work. Once a product is publicly released, GAO staff with expertise in the subject matter will answer questions from the media when asked. *A Reporter's Guide* to GAO is available on GAO's Web site www.gao.gov.

Broadcast interviews—radio, television, and Internet—are done only on request and only when GAO deems them appropriate for public understanding of the facts, findings, conclusions, and recommendations of GAO's products. GAO's policy is that senior executives with the broadest knowledge of a completed engagement do such interviews. Before GAO agrees to a broadcast interview, GAO will advise requester(s) of the media source and the expected date and time. If asked to participate in press briefings sponsored by requester(s), GAO will provide support if the press briefing is held in Washington, D.C. In such instances, GAO will provide knowledgeable staff with the understanding that they are present only to answer questions about the specifics of released GAO products.

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